



SIGNIFICANT GLOBAL CASES/ACTIONS

Global: Between January 1st and September 30th, Nintendo conducted 640 seizure actions globally, including counterfeit *Nintendo* video game products and circumvention devices.

Australia: On September 9th, Nintendo filed the first case under Australia's new circumvention laws. The action was against a notorious website selling game copiers.

Korea: In July, the Supreme Court sentenced an R4 importer/seller to eight months in jail and to pay a fine totaling more than \$36K. The importer/seller is appealing his eight month prison term at the Supreme Court level.

Netherlands: Nintendo was sued by eleven web shop operators after receiving notices to stop selling game copiers/mod chips. Nintendo filed a counter-suit based on trademark and circumvention claims. Trial is scheduled for October and a decision is expected by mid-November.

Paraguay: In the first case of its kind, the Paraguayan authorities tested the new laws against circumvention devices and took action against distributors of game copiers and mod chips in Ciudad del Este.

UK: Nintendo was granted a temporary injunction against a significant importer of game copiers to stop importing the illegal devices. The importer is aggressively defending the action. Nintendo will be seeking a summary judgment by the end of this year to promptly and expeditiously dispose of this case without a trial.

U.S.: Federal court issued an order against an importer/seller of game copiers, confirming game copiers violate the Digital Millennium Copyright Law. This order has increased the compliance rate of take-down notices issued to website operators selling the illegal devices.



QUARTERLY ANTI-PIRACY SNAPSHOT

Asia-Pacific

Q3: July – September 2009

ACTIONS

Asia: Since January, Nintendo conducted 151 actions and confiscated over 145K counterfeit *Nintendo* Wii discs. During the same period in 2008, only 20 actions and 9,093 *DS* game cartridges were confiscated.

Asia: Nintendo obtained cooperation from a top global trade-board offering circumvention devices, to filter its site and to comply with Nintendo's take-down notices. This resulted in a 82% decrease in circumvention devices available on the website from Q2 to Q3.

Australia: In September, Nintendo filed an action against a notorious website selling game copiers. This is the first case initiated under Australia's new circumvention laws.

China: In Q3, 37 actions were conducted against game copiers. This represents a 164% increase in the number of actions taken in Q2 of 2009.

Taiwan: In July, Hsinchu IP Court sentenced an individual to nine months in jail (no probation) for transporting counterfeit *Wii* discs and other counterfeit products.

Korea: In July, the Supreme Court sentenced an R4 importer/seller to eight months in jail and pay a fine of more than \$36K. The eight month prison terms is being appealed at the Supreme Court level.

IP POLICY ACTIVITIES

China: The U.S. Government is resuming bilateral talks with China following the conclusion of the WTO case the U.S. brought against China. Re-introductions of country trade teams occurred this past summer and will culminate in a meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) in Beijing the week of October 26th.

Korea: As of July 23rd, Korea adopted a "three-strikes" policy against users of ISPs. While yet to be enacted, it appears users may be disconnected from their Internet service by the ISP if they are caught three times dealing in illegal content.

Taiwan: In April, Taiwan passed an ISP law that included a similar policy called "graduated response program." The program includes ISPs cooperating with IP owners and after repeated notices to a user of illegal content, the users' Internet access can be suspended/terminated. In August, a coalition of copyright based industries (movie, music and games) was formed to create regulations on how the graduated response should operate under Taiwan law. Discussions amongst the coalition group is underway.

EDUCATION/PIRACY AWARENESS

China: Since January, Nintendo conducted 8 training sessions for customs and administrative agencies, seeking their support in increasing activities against circumvention devices.

Singapore: After an action against Tenchi International Pte. Ltd, a distributor of modded *Wii* consoles, the company issued a public apology to Nintendo that was published in the Times Strait newspaper on August 19th.

Singapore: Nintendo is supporting the "Public Awareness Program" initiated by the Intellectual Property Office of Singapore. The aim of this campaign is to educate consumers on the importance of respecting intellectual property and the legal consequences of buying fake products.



QUARTERLY ANTI-PIRACY SNAPSHOT

Europe

Q3: July – September 2009

ACTIONS

Netherlands: In July, The Amsterdam court ordered website owners (including the 3 current owners and possible future owners) to make the site inaccessible to Internet users located in the Netherlands. The website is notorious for hosts countless illegal music, movie and game files.

Netherlands: Nintendo was sued by eleven web shop operators after receiving notices to stop selling game copiers/mod chips. Nintendo filed a counter-suit based on trademark and circumvention claims. Trial is scheduled for October and a decision is expected by mid-November.

UK: Nintendo was granted a temporary injunction against a significant importer of game copiers to stop importing the devices. The importer is aggressively defending the action. Nintendo will be seeking a summary judgment by the end of this year to promptly and expeditiously dispose of this case without a trial.

IP POLICY ACTIVITIES

France: The National Assembly passed the bill approving of a new three strikes law, called Hadopi-2. The bill is an important step in curbing Internet piracy in France. In theory, a user will be notified three times before their Internet access is impacted/turned off.

Spain: The Spanish Government continues to struggle with proposing regulations aimed at reducing Internet piracy. Nintendo is an active member of the industry association, ADESE, who has joined a larger rights holders Coalition working to curb Internet piracy. In September, Nintendo collaborated with industry members to assist the National Security Council to raise Intellectual Property protection with the Spanish Government when U.S. President Obama met with Prime Minister Zapatero.

UK: Nintendo is supporting ELSPA in their request to the UK Government to support a 'graduated response program.' The program includes ISPs cooperating with IP owners and after repeated notices to a user of illegal content, the users' Internet access can be suspended/terminated.

EDUCATION/PIRACY AWARENESS

Germany: In August, Gamesmarkt published a story outlining Nintendo's actions against circumvention devices in Germany based on an interview conducted by a Nintendo representative.

UK: In September, MCV issued a story highlighting Nintendo and steps it is taking to pursue game copiers throughout Europe and its position on Internet piracy and ISPs who fail to cooperate with IP owners.

Europe: Nintendo continued its training program with law enforcement authorities and customs officials throughout Europe. During Q3, training sessions took place in Germany, Italy, Spain and the U.K.



QUARTERLY ANTI-PIRACY SNAPSHOT

The Americas

Q3: July – September 2009

ACTIONS

U.S.: In September, a Federal Court issued an order confirming game copiers violate the Digital Millennium Copyright Law.

Latin America: The most popular trade board throughout the region has agreed to cooperate with Nintendo by removing listings of game copying devices. The goal is to decrease the availability of the devices to consumers in LA.

Brazil: ESA and Specialized Police conducted 19 raids on retail shops and confiscated almost 9,000 counterfeit products, sending a scare through the rest of the local retailers.

Mexico: Since January, ESA and local authorities seized approximately 100K counterfeit Nintendo products. The notorious Tepito market has been raided five times. In the latest Tepito action, 24 locations were raided and over 250K counterfeit video game products seized along with manufacturing equipment.

Paraguay: In August, authorities took the first step to enforce its new laws by taking action against game copiers/mod chips in Ciudad del Este. Additional actions are planned.

IP POLICY ACTIVITIES

U.S.: Nintendo is collaborating with ESA on discussions underway with ISPs. Nintendo is supporting a program whereby after notifying users of illegal content, the ISP should suspend/terminate the users' Internet access. Inconsistent positions within the industry could stall negotiations with ISPs.

Canada: In September, Nintendo submitted information to the Canadian Government on game copiers and the need to include regulations against such devices in the future laws.

Brazil: The Japanese Embassy has requested a meeting with Nintendo in Brazil to discuss market barrier issues and the piracy problems as outlined in Nintendo's Special 301 submitted to the United States Trade Representative in February 2009.

PIRACY AWARENESS

U.S.: Since January, ESA conducted 17 training sessions, increasing the number of criminal investigations and customs seizures against circumvention devices.

Canada: Nintendo is supporting the ESA's "Reality Tour" focused on educating law enforcement authorities in seven top Canadian cities.

Mexico: The "Don't Lose, Win with the Original" industry education campaign will kick off Q1 2010. The campaign is planned to educate students and parents on the importance of respecting intellectual property rights and the hardship caused by piracy.